

REMARKS

The Applicant appreciates the courteous and complete examination of the application by the Examiner. In view of the foregoing amendments and the following remarks, a reconsideration of the instant application is respectfully requested.

In order to expedite the prosecution of this application claims 21 and 23 have been canceled without prejudice or disclaimer of the subject matter thereof. Claims 14, 18, 22, 24 and 29 have been added to more completely cover certain aspects of the Applicant's invention. Claims 4-20, 22 and 24-34 are now in this application.

Regarding the Claim 102 Rejections

The Examiner rejected claims 14, 15 and 17-21 under 35 U.S.C. 102(b) as being anticipated by Bouiges. The Examiner states that the Bouiges reference discloses "a guide part 49." The Applicant respectfully points out that the element (une seconde barrette 49) disclosed in the Bouiges reference is not a guide part, as described in claim 14. Element (49) translates into "second barrette" wherein barrette is the French, diminutive of barre or bar (<http://dictionary.reference.com>, The American Heritage® Dictionary of the English Language, Fourth Edition Copyright © 2006 by Houghton Mifflin Company). Thus, element (49) in the Bouiges reference is a second bar or rod and not a guide part as in amended claim 14.

Furthermore, the Bouiges reference does not disclose, teach or suggest the guide as being closed at the base and open at the top, with the guide sliding within said tubular casing and has a section similar to that of the tubular casing, as described in now cancelled claim 21 (amended claim 14). The second bar (40) of the Bouiges reference does not have a configuration similar to a closed base and an open top similar to the section of the tubular casing.

Independent claim 14 has been amended to include the allowable subject matter of cancelled claims 21 and 23, thereby putting claim 14 in condition for allowance. Claims 15 and 17-20 are felt to patentably distinguish over the prior art references because of their above-mentioned dependency from amended claim 14.

The Applicant requests that the Examiner reconsiders his rejections of the invention in view of the well established principle that small differences in a crowded art

can constitute patentable improvement. See *In re Baum*, 51 USPQ 470 (CCPA 1941) and *In re Lange*, 126 USPQ 365 (CCPA 1960). In considering this principle, the Applicant would also request that the Examiner take note to the court decision which notes that “apparent simplicity has been held to furnish strong argument for patentability where, as here, a need has existed for a structure of the nature disclosed and claimed. The fact that a solution to a problem is simple, or appears to be simple when viewed in retrospect, does not mean that the solution was obvious when it was conceived.” See *Ellipse corp. v. Ford Motor Co.*, 171 USPQ 513.

Regarding the Claim 103 Rejections

The Examiner rejected claim 16 under 35 U.S.C. 103(a) as being unpatentable over Bouiges in view of Suberkrug. Claim 16 is felt to patentably distinguish over the prior art references because of its above-mentioned dependency from amended claim 14.

The Examiner rejected claim 22 under 35 U.S.C. 103(a) as being unpatentable over Bouiges in view of Haddock. Claim 22 is felt to patentably distinguish over the prior art references because of its above-mentioned dependency from amended claim 14.

However, as the Supreme Court recently explained “a patent composed of several elements is not proved obvious merely by demonstrating that each element was, independently, known in the prior art.” *JKS Int'l Co. v. Teleflex Inc.*, 550 U.S., 82 U.S.P.Q.2d 1385, 1396 (2007). Moreover, “[r]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.* (citing *In re Kahn*, 441 F. 3d 977, 988 (Fed. Cir. 2006). “To facilitate review, this analysis should be made explicit.” *Id.* Furthermore, “[a] factfinder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of arguments reliant upon ex post reasoning. See *Graham*, 383 U. S., at 36 (warning against a ‘temptation to read into the prior art the teachings of the invention in issue’

and instructing courts to 'guard against slipping into the use of hindsight' (quoting *Monroe Auto Equipment Co. v. Heckethorn Mfg. & Supply Co.*, 332 F. 2d 406, 412 (CA6 1964)))." *Id.* at, 82 U.S.Q.P.2d at 1397.

Regarding the Claim 112 Rejections

The Examiner rejected claims 18 and 29-33 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the use of "preferably" is indefinite.

Claims 18 and 29 have been amended to remove the phrase "preferably", hereby overcoming this rejection. Claims 30-33 are felt to patentably distinguish over the prior art references because of their above-mentioned dependency from amended claim 29.

Regarding the Claim Objections

The Examiner objected claims 23-27 as being dependent upon a rejected base claims, "but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims." The allowable subject matter of claims 21 and 23 have been amended into independent claim 14, thereby putting claims 24-27 in condition for allowance.

Claims 28 and 34 are allowed.

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicant reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably

infer that the Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

Applicant has endeavored to address all of the Examiner's concerns as expressed in the Office Action. Accordingly, amendments to the claims, the reasons therefor, and arguments in support of patentability of the pending claim set are presented above. Any claim amendments which are not specifically discussed in the above-remarks are made in order to improve the clarity of claim language, to correct grammatical mistakes or ambiguities, and to otherwise improve the clarity of the claims to particularly and distinctly point out the invention to those of skill in the art. Finally, Applicant submits that the claim limitations above represent only illustrative distinctions. Hence, there may be other patentable features that distinguish the claimed invention from the prior art.

With the above amendments being fully responsive to all outstanding rejections and formal requirements, it is respectfully submitted that the claims are now in condition for allowance, and a notice to that effect is earnestly solicited. Should the Examiner feel that there are further issues which might be resolved by means of telephone interview, the Examiner is cordially invited to telephone the undersigned at (403) 444-5695, or email at davidguerra@internationalpatentgroup.com

No additional fee is due.

Respectfully Submitted,

/David A. Guerra/

David A. Guerra
Registration No.: 46,443
Customer No.: 29,689

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO, electronically transmitted using EFS-Web, or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

On (Date) 05/16/2008 by David A. Guerra /David A. Guerra/